

the basis of income for the full calendar year.

(d) *Proportionate income limitations; computation.* Income limitations will be computed proportionately for the purpose of determining initial entitlement, or for resuming payments on an award which was discontinued for a reason other than excess income or a change in marital or dependency status. A proportionate income limitation will be established for the period from the date of entitlement to the end of that calendar year. The total amount of income received by the claimant during that period will govern the payment of benefits. Income received prior to the date of entitlement will be disregarded.

(e) *Proportionate income limitations; spouse.* In determining whether proportionate computation is applicable to a claim under Pub. L. 86-211 (73 Stat. 432), the total income for the calendar year of entitlement of both veteran and that of the spouse available for use of the veteran will be considered. If a proportionate income limitation is then applicable, it will be applied to both the veteran's and the spouse's income. The spouse's income will not be included, however, where his or her total income for the calendar year does not exceed \$1,200.

(f) *Rate changes.* In years after that for which entitlement to pension or dependency and indemnity compensation has been established or reestablished as provided in paragraph (d) of this section, total income for the calendar year will govern the payment of benefits. Where there is a change in the

conditions of entitlement because of a change in marital or dependency status, entitlement for each period will be determined separately. For the period when the claimant was married or had a dependent, the rate payable will be determined under the annual income limitation or increment applicable to a claimant who is married or has a dependent. For the period when the claimant was unmarried or without a dependent, the rate payable will be determined under the annual income limitation or increment applicable to a claimant who is not married or has no dependent. Since these determinations will be based on total income for the calendar year, it is not material whether such income was received before or after the change of status.

(g) *Fractions of dollars.* In computing a claimant's annual income a fraction of a dollar will be disregarded for the purpose of determining entitlement to monthly payments of pension and dependency and indemnity compensation.

(Authority: 38 U.S.C. 1315(g)(2); 1503(b))

[28 FR 30, Jan. 1, 1963, as amended at 29 FR 2944, Mar. 4, 1964; 37 FR 6677, Apr. 1, 1972; 40 FR 16066, Apr. 9, 1975]

### § 3.261 Character of income; exclusions and estates.

The following factors will be considered in determining whether a claimant meets the requirements of §§ 3.250, 3.251 and 3.252 with reference to dependency, income limitations and corpus of estate:

#### (a) *Income.*

Income	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; old-law (veterans, surviving spouses and children)	Pension; section 306 (veterans, surviving spouses and children)	See—
(1) Total income from employment, business, investments, or rents.	Included .....	Included .....	Included .....	Included .....	§ 3.262(a).
(2) Income of spouse .....	.....do .....	.....do .....	Excluded .....	.....do .....	§ 3.262(b).
(3) Earnings of members of family under legal age.	.....do .....	Excluded .....	.....do .....	Excluded .....	§ 3.250(b)(2). § 3.252(e)(3).
(4) Earned income of child-claimant .....	.....do .....	.....do .....	Included .....	.....do .....	
(5) Gifts, including contributions from adult members of family:					
Property .....	.....do .....	Included .....	.....do .....	.....do .....	§ 3.262(k).
Money .....	.....do .....	.....do .....	.....do .....	Included .....	
(6) Value of maintenance by relative, friend, or organization.	Excluded .....	Excluded .....	Excluded .....	Excluded .....	§ 3.262(c).
(7) Rental value of property owned by and resided in by claimant.	.....do .....	.....do .....	.....do .....	.....do .....	
(8) Charitable donations .....	.....do .....	.....do .....	Included .....	.....do .....	§ 3.262(d).

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Income	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; old-law (veterans, surviving spouses and children)	Pension; section 306 (veterans, surviving spouses and children)	See—
(9) Family allowance authorized by service personnel.	Included .....	Included .....	.....do .....	Included.	
(10) Reasonable value of allowances to person in service in addition to base pay.	.....do .....	.....do .....	.....do .....	Included except as earned income of child-claimant.	
(11) Mustering-out pay .....	Excluded .....	.....do .....	Excluded .....	.....do.	
(12) Six-months' death gratuity .....	.....do .....	Excluded .....	.....do .....	Excluded.	
(13) Bonus or similar cash gratuity paid by any State based on service in Armed Forces of United States.	Excluded .....	Excluded .....	Excluded .....	Excluded.	
(14) Retired Serviceman's Family Protection Plan; Survivor Benefit Plan (10 U.S.C. ch. 73):					
Retired Serviceman's Family Protection Plan (Subch. I):					
Annuities .....	.....do .....	.....do .....	.....do .....	.....do.	
Refund (10 U.S.C. 1446) .....	Included .....	Included .....	Included .....	Included.	
Survivor Benefit Plan (Subch. II) (Pub. L. 92-425; 38 Stat. 706).	.....do .....	.....do .....	.....do .....	.....do .....	§ 3.262(e).
Annuity under § 653, Pub. L. 100-456 .....	Included .....	Included .....	Excluded .....	Excluded .....	§ 3.262(r).
(15) Retirement pay received direct from service department.	Included .....	Included .....	Included .....	Included .....	§ 3.262(e).
(16) Retirement benefits; general .....	.....do .....	.....do .....	.....do .....	.....do .....	§ 3.262(h).
(17) Social security benefits:					§ 3.262(e).
Old age and survivors', and disability insurance.	Included .....	Included .....	Included .....	Included .....	§ 3.262(f).
Charitable programs .....	Excluded .....	Excluded .....	.....do .....	Excluded.	
Lump-sum death payments .....	Included .....	.....do .....	.....do .....	.....do.	
Supplemental security income .....	Excluded .....	Excluded .....	.....do .....	.....do.	
(18) Railroad Retirement benefits .....	.....do .....	Included .....	Disability pension—Excluded Death pension—Included.	Included .....	§ 3.262(g).
(19) Retirement pay waived under Federal statute.	Excluded .....	Excluded .....	Excluded .....	.....do .....	§ 3.262(h).
(20) Department of Veterans Affairs payments:					
Pension .....	Excluded .....	Excluded .....	Excluded .....	Excluded.	
Compensation and dependency and indemnity compensation.	.....do .....	.....do .....	.....do .....	.....do.	
World War I adjusted compensation .....	.....do .....	Included .....	.....do .....	Included.	
U.S. Government life insurance or national service life insurance for disability or death, maturity of endowment policies, and dividends, including special and termination dividends.	Excluded .....	Excluded .....	Excluded .....	Excluded.	
Servicemembers' group life insurance .....	.....do .....	.....do .....	.....do .....	.....do.	
Veterans' group life insurance .....	.....do .....	.....do .....	.....do .....	.....do.	
Servicemembers' indemnity .....	.....do .....	.....do .....	.....do .....	.....do.	
Subsistence allowance (38 U.S.C. ch. 31)	Included .....	Included .....	Included .....	Included.	
Veterans educational assistance in excess of amounts expended for training (38 U.S.C. ch. 34).	.....do .....	.....do .....	.....do .....	.....do.	
Educational assistance (38 U.S.C. ch. 35)	.....do .....	.....do .....	Excluded .....	Excluded.	
Special allowance under 38 U.S.C. 1312(a).	Excluded .....	Included .....	.....do .....	Included.	
Statutory burial allowance .....	.....do .....	Excluded .....	.....do .....	Excluded.	
Accrued .....	.....do .....	Included, except accrued as reimbursement.	.....do .....	Included, except accrued as reimbursement.	
(21) Compensation (civilian) for injury or death.	Included .....	Included .....	Included .....	Included .....	§ 3.262(i).

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Income	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; old-law (veterans, surviving spouses and children)	Pension; section 306 (veterans, surviving spouses and children)	See—
(22) Contributions by a public or private employer to a:					
Public or private health or hospitalization plan for an active or retired employee.	Excluded .....	Excluded .....	Excluded .....	Excluded.	
Retired employee as reimbursement for premiums for supplementary medical insurance benefits under the Social Security Program (Pub. L. 91–588; 84 Stat. 1580).	Included .....	Included .....	Excluded .....	Excluded.	
(23) Overtime pay; Government employees ...	Included .....	Included .....	Disability pension—Excluded. Death pension—Included.	Included.	
(24) Commercial life insurance; disability, accident, or health insurance, less payments of medical or hospital expenses resulting from the accident or disease for which payments are made.	Included (as received).	Included (as received).	Included (special provision).	Included (as received).	§ 3.262(j).
(25) Commercial annuities or endowments .....	.....do .....	Included (special provision).	.....do .....	Included (special provision).	§ 3.262(j).
(26) Dividends from commercial insurance .....	Excluded .....	Excluded .....	Excluded .....	Excluded.	
(27) Insurance under Merchant Marine Act of 1936, as amended.	Included .....	Included .....	Included .....	Included.	
(28) Reimbursement for casualty loss (Pub. L. 100–687).	Included .....	Excluded .....	Included .....	Included .....	§ 3.262(t)
Other fire Insurance .....	Excluded .....	Excluded .....	Excluded .....	Excluded .....	§ 3.262(t)
(29) Bequests, devises and inheritances:					
Property .....	Included .....	Excluded .....	Included .....	.....do .....	§ 3.262(k).
Money .....	.....do .....	Included .....	.....do .....	Included.	
Joint bank accounts .....	.....do .....	.....do .....	.....do .....	Excluded .....	§ 3.262(k)(1).
(30) Profit from sale of property .....	Excluded .....	Excluded .....	Excluded .....	Excluded .....	§ 3.262(k).
(31) Jury duty or obligatory civic duties .....	.....do .....	.....do .....	.....do .....	.....do .....	
(32) Relocation payments (Pub. L. 90–448; Pub. L. 90–495).	.....do .....	.....do .....	.....do .....	.....do .....	§ 3.262(c).
(33) The following programs administered by the ACTION Agency:					
Foster Grandparent Program and Older Americans Community Service Programs payments (Pub. L. 93–29; 87 Stat. 55).	.....do .....	.....do .....	.....do .....	.....do .....	§ 3.262(q)(1).
Volunteers in Service to America (VISTA), University Year for ACTION (UYA), Program for Local Services (PLS), ACTION Cooperative Volunteers (ACV), Foster Grandparent Program (FGP), and Older American Community Service Programs, Retired Senior Volunteer Program (RSVP), Senior Companion Program (Pub. L. 93–113; 87 Stat. 394).	.....do .....	.....do .....	.....do .....	.....do .....	§ 3.262(q)(2).
(34) The Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) administered by the Small Business Administration. (Pub. L. 93–113; 87 Stat. 394).	.....do .....	.....do .....	.....do .....	.....do .....	§ 3.262(q)(2).
(35) Agent Orange settlement payments (Pub. L. 101–201).	Excluded .....	Excluded .....	Excluded .....	Excluded .....	§ 3.262(s)
(36) Restitution to individuals of Japanese ancestry (Pub. L. 100–383).	Excluded .....	Excluded .....	Excluded .....	Excluded .....	§ 3.262(u)
(37) Income received by American Indian beneficiaries from Trust or Restricted lands (Pub. L. 103–66).	Excluded .....	Excluded .....	Excluded .....	Excluded .....	3.262(v)
(38) Income received under Section 6 of the Radiation Exposure Compensation Act (Pub. L. 101–426).	Excluded .....	Excluded .....	Included .....	Included .....	3.262(w)

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Income	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; old-law (veterans, surviving spouses and children)	Pension; section 306 (veterans, surviving spouses and children)	See—
(39) Cash, stock, land or other interests received from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 <i>et seq.</i> ).	Excluded .....	Excluded .....	Excluded .....	Excluded .....	§ 3.262(x)
(40) Monetary allowance under 38 U.S.C. 1805 for children suffering from spina bifida who are children of Vietnam Veterans (38 U.S.C. 1805(d)).	Excluded .....	Excluded .....	Excluded .....	Excluded .....	§ 3.262(y)

(b) *Deduction of amounts paid by claimant.*

Deduction	Dependency (parents)	Dependency and indemnity compensation	Pension; old-law (veterans, surviving spouses, and children)	Pension; section 306 (veterans, surviving spouses, and children)	See
(1) Unusual medical expenses .....	Not authorized	Authorized .....	Not authorized	Authorized .....	§§ 3.262(b)(1) and (1).
(2) Veteran: just debts, expenses of last illness and burial.	Not authorized	Authorized, except debts.	Not authorized	Authorized .....	§§ 3.262(m) and (o).
(3) Veteran's spouse or child: expenses of last illness and burial.	Not authorized	Not authorized	Not authorized	Authorized .....	§ 3.262(n).
(4) Parent's spouse: just debts; expenses of last illness and burial.	Not authorized	Authorized .....	.....	.....	§ 3.262(o).
(5) Prepayment on real property mortgages after death of spouse (Pub. L. 91-588).	Not authorized	Not authorized	Not authorized	Authorized .....	§§ 3.262(k)(6).

(c) *Corpus of estate.*

	Dependency (parents)	Dependency and indemnity compensation	Pension; old-law (veterans, widows, and children)	Pension; section 306 (veterans, surviving spouses, and children)	See
	Considered conditionally .....	Not considered.	Not considered.	Considered ...	§ 3.263.

[28 FR 31, Jan. 1, 1963, as amended at 29 FR 15205, Nov. 11, 1964; 31 FR 15632, Dec. 13, 1966; 33 FR 15286, Oct. 15, 1968; 36 FR 8446, May 6, 1971; 37 FR 6677, Apr. 1, 1972; 37 FR 7092, Apr. 8, 1972; 37 FR 21436, Oct. 11, 1972; 38 FR 872, Jan. 5, 1973; 38 FR 26804, Sept. 26, 1973; 38 FR 28826, Oct. 17, 1973; 40 FR 13305, Mar. 26, 1975; 40 FR 57459, Dec. 10, 1975; 41 FR 17386, Apr. 26, 1976; 42 FR 43834, Aug. 31, 1977; 57 FR 59298, Dec. 15, 1992; 58 FR 12174, Mar. 3, 1993; 58 FR 31909, June 7, 1993; 58 FR 33766, June 21, 1993; 59 FR 37696, July 25, 1994; 60 FR 2522, Jan. 10, 1995; 60 FR 18355, Apr. 11, 1995; 62 FR 51278, Sept. 30, 1997]

**§ 3.262 Evaluation of income.**

(a) *Total income.* All income from sources such as wages, salaries, earnings, bonuses from employers, income from a business or profession or from investments or rents as well as the fair

value of personal services, goods or room and board received in lieu thereof will be included.

(1) Salary is not determined by “takehome” pay, but includes deductions made under a retirement act or